

## **REMARKS**

With entry of this amendment, claims 1 – 32 are pending in the application. By this amendment, claim 1 is amended for clarity, without prejudice.

### **Objection to Information Disclosure Statement**

Applicant's attorney acknowledges that certain references cited in the IDS filed 13 August 2002 were not provided in paper form to the Office. Applicant's attorney notes that these references are cited with specificity for the subject matter of their disclosure in the specification, and are thereby believed to be adequately disclosed to the Office for the purposes of examining the application.

### **Objection to Claim 1**

Claim 1 has been objected to for a typographical informality. The noted error has been corrected by amendment herein. This amendment is presented for clarity, to conform the claim to formal requirements, and does not relate to patentability of the invention, nor in any way alter the scope of the amended claim.

### **Patentability Under 35 USC § 102**

Claims 1-13, 16, 17, 22, 25, 26, 31, and 32 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent 3,154,070 issued to Meckelburg (Meckelburg). Meckelburg is relied upon for allegedly disclosing a flexible patch or mask contoured to facial and/or skin areas of a subject and comprising at least one anti-aging effective compound in chemical communication with an undersurface of the patch or mask body (Office Action Paper No. 7, at pp. 3-7).

Claims 1 and 27-30 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent 210,618 issued to De St. Cyr (Cyr). Cyr is likewise cited by the Office as allegedly disclosing a flexible patch or mask contoured to facial and/or skin

areas of a subject and comprising at least one anti-aging effective compound in chemical communication with an undersurface of the patch or mask body (Office Action Papre No. 7, at pp. 7-8.

Applicant respectfully traverses the stated grounds for rejection and submits that neither of the cited patents by Meckelburg or Cyr discloses or suggests a facial or neck patch or mask comprising an anti-aging effective compound to prevent or alleviate symptoms of skin aging.

Applicant's invention as set forth in claim 1 is directed to a facial or neck patch or mask that includes at least one anti-aging effective compound to prevent or alleviate symptoms of aging. As shown in FIGS. 4 and 5, and as discussed in paragraphs 0001 – 0004, 0030 - 0037, 0047, 0048, 0055, 0056, 0068, 0153, 0154 and 0156 of the published specification (Publication No. 2003 – 0167556), an orbital patch 24 of the invention includes an anti-aging effective compound in contact with an undersurface 18 (FIG. 5). The anti-aging effective compound effectively alleviates or prevents intrinsic aging (chronological aging) and/or extrinsic aging (actinic aging) of the skin. More specifically, the anti-aging effective compound effectively alleviates, prevents or reverses one or more skin-aging symptoms, exemplified by:

Degeneration of the microvascular system;

Flaccidity and development of wrinkles due to a decrease in and/or crosslinking of collagen, accumulation of glucosaminoglycans (base substance) and/or solar elastosis (elastin clumping);

Flattening of the retial cones, associated with a reduction in thickness or area between the dermis and epidermis through which substances are exchanged for healthy metabolism of the epidermis;

Restricted regenerative turnover in the epidermis associated with defective hornification, leading to drying out of the skin, roughness of the skin, chapping of the skin and/or flaking;

Defective regulation of cell division (proliferation) and cell maturation (differentiation) in the epidermis associated with cellular atypia, atrophies, and loss of polarity; and/or

Local hyper- and hypopigmentation and/or abnormal pigmentation (age spots).

The disclosure of Meckelburg fails to teach or suggest a facial or neck patch or mask comprising an anti-aging effective compound to prevent or alleviate symptoms of skin aging. Meckelburg discloses a mask for cosmetically altering the appearance of skin, for example by wet massaging the skin with a mask 10 (FIGS. 1 and 2) placed over it. The mask 10 is made from a material that holds water that is dispensed to the skin, and further functions by exerting suction on the skin. This wet massage mask thereby cosmetically reconditions the appearance of skin by the limited mechanisms of hydrating the skin with water dispensed from the mask 10, massaging the skin by external pressure on the mask 10, and expanding the skin by application of external suction from the mask.

Accordingly, Meckelburg fails to disclose the instantly claimed invention, which expressly requires delivery of an "anti-aging effective compound" to the skin via an anatomically conforming patch or mask. As is specifically described and claimed by Applicant, the present invention delivers the subject anti-aging compound "in an effective amount, and for an effective period, to prevent or alleviate symptoms of skin aging in the facial and/or neck skin area to which the patch or mask is applied." Meckelburg's device clearly fails to satisfy these terms and limitations as they would be appreciated by those skilled in the art. In fact, the Meckelburg device does not depart significantly from a water saturated wash cloth in its structure, chemical composition, and function--except with regard to the honey comb structure that reportedly retains water and functions in mediating suction forces to expand the skin. These facets of the Meckelburg device clearly fail to anticipate the foregoing elements and limitations of Applicant's invention directed toward prevention and reduction of skin aging.

Similarly, the disclosure provided by Cyr fails to teach or suggest a facial or neck patch or mask that functions to deliver “an anti-aging effective compound” “to prevent or alleviate symptoms of skin aging”. On the contrary, Cyr describes a heating pad 1 (FIG. 1) that functions to apply liquefied wax to skin to reduce skin dryness, remove excess matter from skin pores, and refine skin texture. Accordingly, like the device of Meckelburg, Cyr’s heating pad is constructed and used for a limited purpose of cosmetically altering the appearance of skin. It does not contain or deliver an “anti-aging effective compound” as recited in the instant claims, nor does it function to “prevent or alleviate symptoms of skin aging” as described by Applicant.

The Office provides additional comments to support the rejection of dependent claims 2-31 over Meckelburg, or Cyr. Applicant notes that the foregoing remarks pertaining to claim 1 evince patentability of these dependent claims, independent of the additional, specific subject matter recited therein. Accordingly, Applicant declines to further address the merits of additional grounds for rejection pertaining to the dependent claims, which are obviated by the remarks directed to independent claim 1, above.

Applicant’s invention as set forth in claim 32 is directed to a method for treating facial and/or neck skin aging using functions related to a facial or neck patch or mask that includes at least one anti-aging effective compound. Therefore, the instantly claimed invention is allowable over Meckelburg for reasons similar to those recited above in support of claim 1 over Meckelburg and De St. Cyr.

### **Patentability Under 35 USC § 103**

Claims 14, 15, and 24 are rejected under 35 USC § 103(a) as allegedly unpatentable over Meckelberg in view of Korol (US Patent No. 4,747,845). Meckelberg is relied upon for teaching a facial or neck patch or mask comprising an anti-aging effective compound to prevent or alleviate symptoms of skin aging, as applied above. Korol is cited secondarily for allegedly teaching a resin matrix for extended release of medicaments via an external skin dressing.

Meckeburg fails to teach or suggest a facial or neck patch or mask comprising an anti-aging effective compound to prevent or alleviate symptoms of skin aging--for the reasons noted above. The alleged teachings of Korol, if accepted as describing a resin matrix for extended release of medicaments via an external skin dressing, fail to remedy the above deficiencies noted for the primary reference. Korol does not provide an anti-aging effective compound, nor any device to prevent or alleviate symptoms of skin aging--and a proposed combination of Meckelburg and Korol would not remedy the deficiencies of Meckelburg to yield an anti-aging effective device according to the instant claims.

Claims 18 and 19 are rejected under 35 USC § 103(a) as allegedly unpatentable over Meckelburg in view of Lorenz (US Patent No. 5,306,504). Meckelburg is relied upon for teaching a facial or neck patch or mask comprising an anti-aging effective compound to prevent or alleviate symptoms of skin aging, as applied above. Lorenz is cited secondarily for allegedly teaching a skin adhesive biogel.

Meckeburg fails to teach or suggest a facial or neck patch or mask comprising an anti-aging effective compound to prevent or alleviate symptoms of skin aging--for the reasons noted above. The alleged teachings of Lorenz, if accepted as describing a skin adhesive biogel, fail to remedy the above deficiencies noted for the primary reference. Lorenz does not provide an anti-aging effective compound, nor any device to prevent or alleviate symptoms of skin aging--and a proposed combination of Meckelburg and Lorenz would not remedy the deficiencies of Meckelburg to yield an anti-aging effective device according to the instant claims.

### **Conclusion**

For the foregoing reasons, Applicant respectfully requests that the Office withdraw all rejections of claims 1–32 and issue a prompt allowance for these claims.

If the examiner believes that a phone interview would be helpful, he is respectfully requested to contact the Applicant's attorney, John Janeway, at (425) 455-5575.

DATED this 14<sup>th</sup> day of February, 2005.

Respectfully submitted,

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